



City of Seattle

Seattle Public Utilities

November 8, 2012

Joe Burcar
Department of Ecology
Northwest Regional Office
319016th Avenue NE
Bellevue, WA 98008-5452

Re: Proposed Limited Amendment to City of Seattle Shoreline Master Program (SMP)

Dear Mr. Burcar,

Pursuant to WAC 173-26-110, the City of Seattle (City) is submitting this proposed limited amendment to the City's Shoreline Master Program (SMP). This proposal would allow utility service uses such as underground sewage and stormwater storage tanks in the conservancy recreation (CR) environment as a conditional use. These types of facilities are required in the CR environment per the City's National Pollutant Discharge Elimination System (NPDES) permit with the Department of Ecology (Ecology). A table demonstrating how this proposal meets the requirements of WAC 173-26-110 is shown on the next page.

If you have any questions regarding this proposal, please contact me at (206) 733-9066.

Sincerely,

Andrew Lee
CSO Reduction Program Manager

Enclosures

Copy:	Ray Hoffman, SPU Nancy Ahern, SPU	Neil Thibert, SPU Cheryl Paston, SPU	Andrew Lee, SPU Betty Meyer, SPU
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Summary of CSO SMP Amendment Submittal to Ecology

WAC 173-26-110 Requirement		Reference Document (if applicable)
1	Documentation (i.e., signed resolution or ordinance) that the proposal has been approved by the local government;	Attachment 1 – Council Ordinance (Signed)
2	If the proposal includes text amending a master program document of record, it shall be submitted in a form that can replace or be easily incorporated within the existing document. Amended text shall show strikeouts for deleted text and underlining for new text, clearly identifying the proposed changes. At the discretion of the department, strikeouts and underlined text may not be required provided the new or deleted portions of the master program are clearly identifiable;	Attachment 2 –Text Amendment
3	Amended environment designation map(s), showing both existing and proposed designations, together with corresponding boundaries described in text for each change of environment. All proposals for changes in environment designation and redesignation shall provide written justification for such based on existing development patterns, the biophysical capabilities and limitations of the shoreline being considered, and the goals and aspirations of the local citizenry as reflected in the locally adopted comprehensive land use plan;	N/A
4	A summary of proposed amendments together with explanatory text indicating the scope and intent of the proposal, staff reports, records of the hearing, and/or other materials which document the necessity for the proposed changes to the master program;	Attachment 3 – Summary of Proposal
5	Evidence of compliance with chapter 43.21C RCW, the State Environmental Policy Act, specific to the proposal;	Attachment 4 – SEPA compliance documents: <ul style="list-style-type: none"> • SEPA Checklist • SEPA DNS • SEPA Public Notice • SEPA Appeal & Dismissal
6	Evidence of compliance with the public notice and consultation requirements of WAC 173-26-100 ;	Refer to Attachment 3 – Summary of Proposal
7	Copies of all public, agency and tribal comments received, including a record of names and addresses of interested parties involved in the local government review process or, where no comments have been received, a comment to that effect.	Refer to Attachment 3 – Summary of Proposal
8	A copy of the master program submittal checklist completed in accordance with WAC 173-26-201 (2)(f) and (3)(a) and (h).	Attachment 5 – Master Program Submittal Checklist
9	For comprehensive master program updates, copies of the inventory and characterization, use analysis, restoration plan and cumulative impacts analysis.	N/A

Attachment 2 – Text amendment to Section 23.60.365

Section 1. Section 23.60.365 of the Seattle Municipal Code, which section was last amended by Ordinance 122310, is amended as follows:

23.60.365 Administrative conditional uses in the CR Environment~~((+))~~

The following uses may be authorized by the Director, with the concurrence of the Department of Ecology, as principal or accessory use, if the criteria for administrative conditional uses in WAC 173-27-160 are satisfied:

A. Single-family dwelling units constructed partially or wholly over water and meeting the following conditions:

1. If located on a residentially zoned and privately owned lot established in the public records of the County or City prior to March 1, 1977, by deed, contract of sale, mortgage, platting, property tax segregation or building permit; and
2. If the lot has less than ~~((thirty(-)))~~30~~((+))~~ feet but at least ~~((fifteen(-)))~~15~~((+))~~ feet of dry land calculated as provided for in measurements Section 23.60.956; and
3. If the development is limited to the dry-land portion of the site, to the greatest extent possible, and particularly to the most level and stable portions of the dry- land area.

B. Development standards of the underlying zone applicable to the single-family use in a CR environment may be waived or modified by the Director to minimize the amount of development over submerged lands.

C. The following uses may be authorized in the CR Environment either as principal or accessory uses:

1. The following uses when associated with a public park:

- a. Small craft center,
- b. Boat launching ramp for auto-trailer boats,
- c. The following non-water-dependent commercial uses:

~~((+))~~1) Sale and rental of small boats, boat parts and accessories,

~~((+))~~2) General sales and services, and

~~((+))~~3) Major durables retail sales, and

~~((+))~~4) Eating and drinking establishments;

2. Community yacht, boat and beach clubs when:

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- a. No eating and drinking establishments are included in the use,
- b. No more than one ~~((1+))~~ pier or float is included in the use, and
- c. Any accessory pier or float meets the standards of Section 23.60.204 for piers and floats accessory to residential development.

D. Utility service uses.

1. Utility service uses for treating and storing stormwater and/or combined sewage are allowed as a shoreline conditional use if:

- a. They reasonably require a shoreline location to operate;
- b. They are the minimum size necessary to meet the purpose; and
- c. They mitigate adverse impacts to achieve no net loss of ecological functions.

2. All other utility service uses are prohibited.

Section 2. Section 23.60.368 of the Seattle Municipal Code, which section was last amended by Ordinance 122310, is amended as follows:

23.60.368 Prohibited uses in the CR Environment~~((--))~~

The following uses shall be prohibited as principal uses in the CR Environment:

- A. Residential uses except those permitted by ~~((S--))~~ subsection 23.60.365 . A;
- B. Commercial uses except those specifically permitted by ~~((S--))~~ subsection 23.60.365 . C;
- C. Utility uses except utility lines and utility service uses for treating and storing stormwater and/or combined sewage permitted pursuant to Section 23.60.365 ;
- D. Manufacturing uses;
- E. High-impact uses;
- F. Institutional uses except community clubs meeting the criteria of ~~((S--))~~ subsection 23.60.365 . C;
- G. Public facilities not authorized pursuant to Section 23.60.370;
- H. Parks and open space uses except shoreline recreation uses permitted by ~~((S--))~~ subsection 23.60.360 . A;

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I. Agricultural uses except aquaculture;

J. The following shoreline protective structures:

1. Groins and similar structures that block the flow of sand to adjacent beaches, except drift sills or other structures that are part of a natural beach protection system, and

2. Bulkheads on Class I beaches; and

K. Landfill that creates dry land except as part of habitat mitigation or enhancement.

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Proposed Limited Amendment: Section 23.60.365 of the Seattle Municipal Code would be amended so that utility service uses for treating and storing stormwater and/or combined sewage are allowed as a shoreline conditional use if:

1. They reasonably require a shoreline location to operate;
2. They are the minimum size necessary to meet the purpose; and
3. They mitigate adverse impacts to achieve no net loss of ecological functions.

All other utility service uses are prohibited.

Objective: Demonstrate that the proposed limited amendment to the Shoreline Master Program is vital to the public interest.

Reason for Limited Amendment:

The City of Seattle (“City”) owns and operates a combined sewer system which discharges raw sewage and untreated stormwater to our waters during storm events. These overflows are called “Combined Sewer Overflows” or CSOs, and they threaten the quality of the City’s surrounding creeks, lakes, rivers, and Elliott Bay. The City is required to reduce the frequency of CSO discharges to protect public health and the environment and to comply with state and federal regulations. In the State of Washington, the Department of Ecology administers the National Pollutant Discharge Elimination System (NPDES) program, which regulates the City’s CSO discharges.

In the Southeast area of the City, the City is required by its NPDES permit to begin construction projects to reduce CSOs into Lake Washington by 2013. The City has identified two projects that will require construction of CSO storage facilities along Lake Washington in a Conservancy Recreation (CR) environment. These two sites are: 1) A parking Lot (owned by Seattle Parks Department) along Lake Washington Blvd between 49th Ave S and 48th Ave S; and 2) Seward Park, under the existing tennis courts and parking lot. The two shoreline sites were selected based on a combination of factors, including but not limited to hydraulic constraints of the sewer system, cost, environmental impacts, and stakeholder/ community input. The hydraulic constraints of the sewer system typically create the requirement for shoreline locations. This is because sewer systems operate by gravity to ensure reliable operations and maintenance (O&M) and to reduce the high capital and O&M costs of pumping. CSO storage facilities also typically require a location near the CSO outfall pipe. Locating a CSO storage facility further away from a CSO outfall pipe can significantly increase the size of the storage facility, thereby greatly increasing capital costs. In both cases where a CSO storage facility is being proposed in a CR environment, the CSO outfalls are located in a CR environment.

The proposed CSO storage facilities will be buried, underground facilities, located underneath existing impervious parking lots. In their final configuration, the facilities will not be noticeable.

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There will be smaller appurtenances (e.g., electrical panel and air intake structures) which will be shielded by landscaping.

It is vital to the public interest that the proposed CSO storage facilities be allowed to be constructed in the CR environment. The alternatives to constructing in the CR environment include condemnation and demolition of multiple, adjacent waterfront private properties or construction of expensive, linear storage (i.e., pipeline) under Lake Washington Boulevard. In both cases, there would be significant opposition from the general public. Therefore, it is in the public interest that a limited amendment be approved to allow for conditional use of “Utility Service Uses” in the CR environment.

WAC 173-26-201 – Process to prepare or amend shoreline master programs

(1) **Applicability.** This section outlines the process to prepare a comprehensive shoreline master program adoption or update. This section also establishes approval criteria for limited shoreline master program amendments.

(a) All master program amendments are subject to the minimum procedural rule requirements of WAC [173-26-010](#) through [173-26-160](#) , and approval by the department as provided in RCW [90.58.090](#).

(b) Comprehensive master program adoptions and updates shall fully achieve the procedural and substantive requirements of these guidelines. Adoption of new shoreline master programs and amendments submitted to meet the comprehensive update requirements of RCW [90.58.080](#) are a statewide priority over and above other amendments.

(c) Limited master program amendments may be approved by the department provided the department concludes:

(i) The amendment is necessary to:

(A) Comply with state and federal laws and implementing rules applicable to shorelines of the state within the local government jurisdiction;

(B) Include a newly annexed shoreline of the state within the local government jurisdiction;

(C) Address the results of the periodic master program review required by RCW [90.58.080](#)(4), following a comprehensive master program update;

(D) Improve consistency with the act's goals and policies and its implementing rules; or

(E) Correct errors or omissions.

(ii) The local government is not currently conducting a comprehensive shoreline master program update designed to meet the requirements of RCW [90.58.080](#), unless the limited amendment is vital to the public interest;

(iii) The proposed amendment will not foster uncoordinated and piecemeal development of the state's shorelines;

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(iv) The amendment is consistent with all applicable policies and standards of the act;

(v) All procedural rule requirements for public notice and consultation have been satisfied;
and

(vi) Master program guidelines analytical requirements and substantive standards have been satisfied, where they reasonably apply to the limited amendment. All master program amendments must demonstrate that the amendment will not result in a net loss of shoreline ecological functions.

(d) A limited amendment in process at the time a local government's comprehensive update begins will be processed to completion, unless requested otherwise by the local government.